

**2006 ASIAN REGIONAL FORUM ON AID EFFECTIVENESS:  
IMPLEMENTATION, MONITORING AND EVALUATION**

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**What is required to deliver external assistance  
through country systems?**

**Procurement reform in the Philippines**

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The opinions expressed in this case study are the author's alone,  
and do not represent the official views of the organisers of  
the Asian Regional Forum on Aid Effectiveness

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## 1. Introduction

1. This case study is one of a series being prepared for presentation at the Asian Regional Forum on Aid Effectiveness: Implementation, Monitoring and Evaluation in Manila in October 2006. It assesses experience to date in implementing the Paris Declaration commitments on systems alignment: namely the efforts by countries and donors to reform and strengthen country systems for public-investment management, and to increase their use for the delivery of external assistance.
2. This case study covers the experience of public procurement reform in the Philippines. It will be combined with lessons from public-financial management reform in Bangladesh into a thematic study for presentation at Manila.
3. Both the Government of the Philippines (GoP) and its donors have a common interest in ensuring that procurement regulations, procedures and implementation are world class. Since the 1990s, the GoP has led a process of reform in public procurement as part of its modernisation of public life, supported by a range of external partners. This modernisation is both driven by technical “best practice” and a political imperative to make government more transparent and accountable. The process of procurement reform has widely been recognised as a success, and is the subject of a number of studies identifying how the changes were achieved.
4. This review of the process seeks to identify the lessons which have emerged on implementing the principles of the Paris Declaration on Harmonisation and Alignment. It first looks at the overall planning context and partnership with donors, then considers the reform process itself, finally identifying lessons learned.
5. The case study on the basis of existing literature, supplemented by interviews with Government, donor and civil society stakeholders during a week-long visit to the Philippines in July 2006. A draft of the case study has been reviewed by government and donor stakeholders, and every effort has been made to reflect their views in the case study. However, the opinions expressed in this case study are the author’s alone, and do not reflect the views of the organisers of or participants at the Manila Forum.

“Effective and efficient public procurement systems are essential to the achievement of the Millennium Development Goals, (MDGs) and the promotion of sustainable development. Public procurement systems are at the centre of the way public money is spent since budgets get translated into services largely through the government’s purchase of goods, works, and services. The impact of foreign aid is especially affected by procurement performance given the overwhelming proportion of Official Development Assistance (ODA) that is delivered through the public contracting process. Unfortunately, procurement systems in many developing countries are particularly weak and serve to squander scarce domestic and foreign resources. Strengthening procurement capacity in developing countries must be a vital component of efforts to improve social and economic well-being and a necessary feature of programmes designed to meet the international commitment to reducing poverty.”

*OECD DAC, “Harmonising Donor Practices for Effective Aid Delivery. Volume 3 – Strengthening Procurement Practices in Developing Countries”, Paris, 2005.*

## 2. Country context

### 2.2 *Development planning in the Philippines*

6. During the last five years, the Government of the Philippines has developed a comprehensive and cohesive planning mechanism which integrates policy targets, budget and performance indicators. This provides an increasingly coherent framework for the alignment of external assistance.

7. Overall policy is guided by the Medium Term Philippine Development Plan 2004-2010 (MTPDP). Included in its 10 broad policy priorities is a concern for improving fiscal stability and the rationalisation of public spending. Effective management of the public finances is a priority, with the explicit aim of achieving “a balanced budget by 2010”<sup>1</sup> (indeed there are expectations this will be achieved in 2008). In addition, the GoP reports annually on its achievement of the Millennium Development Goals,<sup>2</sup> which it identifies as integrated fully into the MTPDP.

8. The MTPDP is supported by a Strategic Planning Matrix (SPM) and a Medium Term Public Investment Program 2005-2010 (MTPIP), which together express the details of the overall plan. The MTPDP is underpinned by a detailed budget linked to its policy commitments, set out as a Medium Term Expenditure Framework (MTEF). Performance monitoring for achievement of policy commitments takes place at departmental level through the Organisation Performance Indicator Framework (OPIF – which began in 2004) which is meant to link back to the MTPDP. OPIF is updated annually, and is being refined with each cycle of reporting. The process of reporting to Cabinet on achievements on policy commitments against budget is overseen by the Department for Budget Management (DBM).

9. Donors recognize the importance of the MTPDP for alignment of their assistance, and are increasingly using the MTPDP as their guide, albeit that this applies more clearly to the large multilateral agencies (the World Bank and Asian Development Banks country strategies are expressly linked to the MTPDP). Government officials report that bilateral agencies are trying to align their assistance with the MTPDP. The National Economic Development Authority (NEDA) requires all donors to link their assistance to the MTPDP and MTPIP; all commitments over US\$10m must be approved by the Investment Coordination Committee (ICC) of the NEDA Board.

### 2.2 *The aid partnership*

10. Donor assistance to the Philippines is marginal in economic terms. The Philippines is classed by the World Bank as a Middle Income Country and is far from being aid dependent. Its total official development assistance (ODA) comprised 0.5% of GNI in 2004. It was last eligible for International Development Assistance (IDA) in 1999, and has no Poverty Related Grant Facility (PRGF) with the IMF.

11. The ICC formally manages the inflow of Official Development Assistance (ODA) into the Philippines. Some government note that not all ODA funds (i.e. those from

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<sup>1</sup> See <http://www.neda.gov.ph/>

<sup>2</sup> See [http://www.neda.gov.ph/econreports\\_dbs/MDGs/default.asp](http://www.neda.gov.ph/econreports_dbs/MDGs/default.asp)

external sources) are reflected in the MTEF and MTPIP. Similarly, external assistance is not channelled through NEDA if it is below the required notification threshold of US\$10 million. However efforts are being made to align assistance more clearly with both the MTEF and the MTPIP, enabled by financial systems improvement and the increased emphasis on “harmonisation” (which in the Philippines includes the concepts of alignment as set out in the Paris Declaration). There is concern among GoP officials, however, that to date there has been little change in the prioritisation of donor assistance to reflect the MTPDP. There are also absorption issues in some sectors which result in a discontinuity between commitments and disbursements (*e.g.*, assistance to reform of the grain sector), which it hopes it will be able to discuss openly with partners in the future.

12. The MTPDP notes the role of external assistance in the achievement of the Philippine’s plans. It identifies the principal function of ODA as supporting large infrastructure developments.

“ODA is the preferred source for financing large infrastructure projects that require huge funds, as it is relatively soft with its lower interest rates and longer maturity period. However, unless it is a grant, ODA is usually a loan and increases the budget deficit as other loans do, only with better terms of payment. The government has therefore carefully chosen its ODA-funded projects in the past three years. But to minimize borrowing and lower the deficit in these times of fiscal constraints, the government must be even more selective of the projects to be funded by ODA. The programs prioritized for ODA funding are those that will directly contribute to the 10-point development agenda and the MTPDP 2004-2010”.<sup>3</sup>

13. As of December 2005, the Philippines received total cumulative commitments of US\$10.2 billion in ODA “loans” (down from US\$13.3 billion as of 2000) for ongoing projects. These loans have a weighted grant element of 55 percent.

#### Current ODA commitments to the Philippines 2005

<u>Source</u>	<u>Number of Loans</u>	<u>Total (US \$ million)</u>	<u>Share of total</u>
Japan-JBIC	67	6,145.0	60.3%
Others	43	1,646.5	16.2%
ADB	28	1,216.7	11.9%
WB	24	1,185.9	11.6%
<b>Total</b>	<b>162</b>	<b>10,194.1</b>	<b>100%</b>

*Source: National Economic and Development Authority, Manila*

It will be noted that the contribution of Japan, a bilateral lender, is more than all other sources combined.

14. In addition to these loans, limited separate grant funding is available, such as from the World Bank’s ASEMII facility (which is being used to support harmonisation

<sup>3</sup> Government of Philippines, “Medium Term Philippine Development Plan”, 2004.

efforts). However, such grant funds are minimal in comparison with the loan amounts set out above.

15. The source of external funding has been changing in recent years; World Bank lending is reducing steadily from earlier levels, and the government is also borrowing from new lenders such as China, which in 2003 has extended loans totalling US\$460m for three infrastructure projects.

16. In addition, the Finance Secretary has recently requested that all loans from donors should be “market tested” to identify if borrowing was being offered on the most advantageous terms both against other ODA providers and commercial sources. This innovative approach signals an assertion of the authority of the Government towards its external partners, and that assistance will not be accepted unquestioningly.

17. Government has been clear that it wishes to comply with the principles of the Paris Declaration, which it sees as important in managing its developing partnerships.

### **2.3 *Aid Co-ordination Mechanism***

18. Since 2005, the Philippine Development Forum (PDF) has acted as the primary mechanism of the Government for facilitating policy dialogue among stakeholders on the country’s development agenda.

19. The PDF evolved from Consultative Group (CG) Meetings, which were held every 18 months among the Government and members of the international development community. The PDF was chaired by the Philippine Government, represented by the Department of Finance (DOF), and co-chaired by the World Bank. In 2004, while planning for the March 2005 PDF Meeting, it was agreed by the Government and the World Bank that there was benefit in widening participation in the PDF, bringing other stakeholders (such as civil society, academics, private sector and legislative representatives) into the dialogue. It was also agreed that the PDF Meeting should fit within a continuing policy dialogue.

20. As the GoP notes, the PDF forms part of the policy-making process of the country, since it “serves as a process for developing consensus and generating commitments among different stakeholders toward critical actionable items of the Government’s reform agenda.”

21. The PDF process involves continuous dialogue on thematic areas through working groups, which are expected to hold meetings in-between the formal PDF meetings to follow-up on the issues and agreements at the last meeting. Currently, the PDF has seven working groups, with different donors contributing based on their comparative advantage.

### PDF Working Groups

Thematic Area	Government Lead Convenor/s	Development Partner Co-Lead Convener(s)
Social Progress (covering education, health and social sectors, under the umbrella of the Millennium Development Goals)	Department of Social Welfare and Development (overall) Department of Health for sub-group on health Department of Education for sub-group on education	UN Resident Coordinator (overall) EC/GTZ for sub-group on health Australia for sub-group on education
Growth and Investment Climate	Department of Trade and Industry	International Finance Corporation, Japan
Economic and Fiscal Reform	Department of Finance	International Monetary Fund, World Bank
Governance and Anti-Corruption	Office of the Ombudsman	Asian Development Bank
Decentralization and Local Government	Department of Interior and Local Government	World Bank
Mindanao (a region of special need)	Mindanao Economic and Development Council	World Bank
Sustainable Rural Development	Department of Agriculture	German Technical Cooperation Agency (GTZ)

22. Since the Paris Declaration, a Harmonization Committee chaired by the DOF has been formed to implement the principles of harmonization and alignment, as well as the government action plan. This Committee, and the work of the PDF in implementing the Paris Agenda, is supported by a TA grant from the ADB amounting to almost \$500,000.

23. Donors access government on an agency or departmental basis. As a result, although funds over US\$10m have to be cleared through the ICC, strategic co-ordination is left to individual agencies and donors for assistance below the threshold of US\$10m, bearing in mind the overall strategic plan of the GoP.

24. For procurement reforms, a process of joint review takes place by the World Bank, the Asian Development Bank (to this year when it appears participation may be constrained) and the Government of the Philippines. Begun in 2002 and presented in 2003, the Country Procurement Assessment Review (CPAR) was originally integrated with a Public Expenditure Review (PER) and a Country Financial Accountability Assessment (CFAA). These products were jointly prepared by the GoP, ADB, and the World Bank, and there have been reports on progress against CPAR recommendations annually since then. The CPAR process is endorsed by the Development Assistance Committee (DAC) of the OECD as a key mechanism for developing institutional and procedural capacity for procurement. It was endorsed as a process by the December 2004 Johannesburg Declaration. Staff in the international agencies note that having a

CPAR process on an annual cycle is exceptional and demonstrates the commitment of the GoP to the reform effort. The annual CPAR has been the focus of harmonised action in support of procurement reform since 2003.

### **The Johannesburg Declaration on Procurement Reforms**

The Johannesburg Declaration ties partners to the implementation of guidance and tools to strengthen developing countries' procurement capacities. These include

- Developing countries will take the steps necessary to integrate procurement into their overall development strategies and assign the needed priority to strengthening procurement systems. Donors will take the steps needed, at both headquarters and at field level, to raise awareness that procurement is a strategic aid management function and central to the aid effectiveness agenda.
- Both developing countries and donors will mobilise the necessary political and financial support in their countries to carry out the guidance developed by the Round Table and to achieve sustainable improvements.
- Developing countries and donors will develop a communications and outreach strategy to The Johannesburg increase the number of developing countries and donors (including new ones not member of the DAC) involved in the implementation process and increase the involvement of civil society and the private sector.
- Developing countries and donors noted the importance of open international competition for contracts in order to maximise the development benefits of strengthened procurement systems and will continue to discuss in the DAC and other fora how to achieve more effective development aid.
- Developing countries and donors will maintain the network of procurement professionals created by the Round Table process to strengthen and disseminate their knowledge base in support of the procurement agenda.
- Developing countries and donors will monitor and evaluate progress in implementing the Round Table guidance, in achieving the desired results and in promoting donor harmonisation and alignment around strengthened partner country procurement systems.

## **3. Procurement reform in the Philippines**

### **3.1 *Background to the reforms***

25. During the mid 1990s, in the immediate post-Marcos era, pressures for reform of governance were growing across Philippine society and within the public administration.

26. At the same time, a generation of global public sector reforms was emerging under the banner of "Reinventing Government" and "The New Public Management" (NPM). These reforms followed innovations first trialled by Commonwealth countries such as New Zealand, Australia, Canada and the UK. NPM sought to transform the processes of government from being dominated by centrally determined administrative procedures to becoming service oriented, with an overall concern for the "three Es": efficiency, effectiveness and economy. NPM sought to incorporate the best of private sector management practices into the public service, whilst retaining public service ethics. Progressive civil servants in the Philippines became interested in, and exposed to, elements of NPM, and during 1995 and 1996 the Australian government funded visits to a range of countries in Asia (such as New Zealand, Australia and South Korea) to build exposure to these new ways of working. This process helped establish a cadre of reform-minded individuals in middle and senior positions of the civil service, and laid the

foundations for a generation of officials to drive forward reforms in financial and procurement management. However, it was not until the end of the 1990s that they were able to implement reforms in finance and procurement.

27. Up to the end of 1999, there had been considerable formal and informal dialogue between government and international officials on the status of governance in the country. Frustration had been building with the pace of the Philippine reform process. A fiscal crisis in the late 1990s made financial and governance reform a central part of the discussions with bodies such as the Bretton Woods Institutions, which became a strong external constituency for change.

28. It should be stressed, however, that the process of budgetary and procurement reform in the Philippines was driven fundamentally by officials in government. In operation, it was a partnership between domestic and international interests, driven through political pressure, both local and international (for instance from the World Bank), and enabled by the timely assistance of foreign governments and agencies to requests from officials for specific support.

### 3.2 *The purpose of the reforms*

29. The reform of procurement in the Philippines sought to accomplish a series of things:

- to respond to the domestic pressure for good governance (specifically reduce the level of corruption in the administration, particularly around large public procurement);
- to unify the “splintered and chaotic”<sup>4</sup> procurement regime that applied in government, making the process more manageable and oversight more effective;
- to modernise the processes of procurement in accordance with international best practice (the laws had not been amended for over 20 years); and
- to respond to international demand for improved procedures and practices in the management of finance and procurement, particularly from large lenders.

By improving procurement, it was expected that government would not only become more effective, but that it would also be perceived to be so. Building confidence in government was a key element of the Philippines development agenda.

30. Whilst expectations were high, there was also a considerable realism about what could be achieved. Participants in the process from 1999 describe how, while they had a clear vision of the end point for the reforms, the political environment was such that they knew the steps towards this would have to be taken strategically, pushing forward in areas where opportunities presented themselves while leaving other initiatives to the appropriate moment.

31. Indeed, the issues raised in 1999 remained pertinent five years later (after the enactment of the reformed legislation). In the July 2004 submission by NEDA to the Cabinet of the Philippines Government advocating the adoption of the MTPDP, the Secretary of Socio-Economic Planning noted that a key element of the plan was supporting “Good Governance and National Harmony”. The submission identified that:

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<sup>4</sup> Ed Campos, Jose Syquia 2006, “Managing the Politics of Reform” World Bank Washington.

“To attract investments, the government shall continue to improve the business environment by strengthening national security and improving the rule of law. It shall also pursue a sound regulatory regime where rules of the game are fair and predictable, and when their implementation is consistent and transparent. The government shall adopt civil service reforms to make the bureaucracy more responsive and efficient. Procedures shall be simplified to reduce the avenues for corruption and red tape and the cost of doing business.”<sup>5</sup>

32. This statement indicates that, whilst much had been achieved, GoP was aware that much remained to be done in ensuring the “rules of the game” by which business interacts with government are transparent, predictable and free from corruption.

### 3.3 *The scope of the reforms*

33. To date the procurement reforms have been dominated by the creation of an appropriate regulatory and procedural framework. They have

- implemented a new legal framework (enabled through both an Executive Order –EO40- and the enactment on 18 December 2002 of Republic Act 9184 known as the Government Procurement Reform Act)
- initiated E-procurement (operational since May 2001) including streamlining and making processes more transparent,
- revitalised the Government Procurement Policy Board (GPPB),
- developed new standard National Competitive Bidding Documents and a draft procurement manual,
- established a standing civil society oversight capacity for procurement in the Philippines (both at policy level through the creation of Procurement Watch Incorporated and at transactional level through including local oversight in the legislation and procedures for public procurement),
- built skills of staff across the public service (which continues).

34. In addition, specific processes related to the harmonisation of external partners systems and alignment with GoP procedures have been put in place since 2001 including

- the 2002 Procurement Reform Act has been amended to reflect the standards required by the large international organisations that supported the reform process (notably the World Bank),
- there has been agreement between the GoP, World Bank and ADB on National Competitive Bidding Documents (although agreement has not yet been achieved for International Competitive Bidding),
- a process of joint annual review between government and external partners (principally the World Bank and ADB) through the Country Procurement Assessment Review has been initiated (to be consistent with the Johannesburg Declaration<sup>6</sup>), and
- a monitoring processes in line with DAC guidelines has been put in place (the Agency Performance Indicators – API) which are jointly used by government

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<sup>5</sup> National Economic Development Agency July 2004 “Planning Guidelines On The Formulation Of The Medium-Term Philippine Development Plan And The Accompanying Medium Term Public Investment Program Based On The National Development/10-Point Agenda”.

(specifically the GPPB as part of its OPIF reporting) and external partners to monitor progress through the CPAR.

35. Achieving these reforms has taken more than seven years from 1999, with the first phase (redrafting the legal framework) only completed in September 2003 with the enactment of the December 2002 law (although most of the rules had been in place since the Executive Order of January 2001). The majority of the effort to date has been at the level of systemic change, with the reforms now entering a phase on implementation and ensuring that implementing agencies comply with the new framework.

#### **4. The process of change**

36. The catalyst for the reform process was the publication in 1999 of a report by the World Bank considering the status of governance and corruption in the Philippines. This report acted as the specific trigger for the government to implement widespread procurement reforms. The report considered the status of governance and corruption, and contained among its recommendations the comprehensive reform of state procurement regulations and practices. There was no specific link to any external aid-effectiveness commitment, and only subsequent to the Rome and Paris declarations have linkages been made to the need for harmonisation and alignment of procurement in line with DAC guidelines.

37. Characteristically for the process of reform in the Philippines, the genesis of the 1999 report was not as it first appears. The World Bank report has in fact been written at the request of the Estrada government, prompted by progressive officials who realised that an external impetus would be required if domestic reform was to take place. Its publication had an immediate effect, especially since it was (deliberately) put into the public domain, building political pressure for change from outside government. Some commentators have noted how this process was carefully managed by senior officials of the time.

38. As Campos and Syquia report, achieving reforms required work on multiple fronts, and the development of a “reform coalition”.

“For a procurement code to be passed, four potential impediments had to be overcome. First, the Executive branch had to be unified in the effort. Second, civil society groups had to be mobilized to lead the advocacy needed to get the Legislature to act. Third, the reformers within the Executive branch and the civil society groups had to work together in unison. Fourth, influential legislators had to be recruited to champion the bill in their respective chambers”.

39. The immediate impact of the World Bank’s 1999 report was to prompt external funders to offer technical assistance to government for the reform process. Prior to 1999, state procurement was officially managed by the Government Procurement Service (GPS). In fact, GPS only handled up to 15% of common goods and supplies. As an initial step, Technical Assistance (TA) was provided by CIDA in 1999 to the GPS’s parent body (the Department for Budget Management - DBM) for the development of electronic procurement which would create procedural improvements and improve transparency and accountability. This was followed by a package of TA from USAID, which led to the drafting during 1999 of the first version of the new procurement

legislation. Both processes were meant to unify the “splintered and chaotic<sup>7</sup>” procurement regime that applied in government to date.

40. The initial USAID assistance, whilst technically appropriate, comprehensive, and consultative, did not develop sufficient ownership of the new draft legislation from partners in the Philippines. As a result, a process of review and redrafting of the consultant’s work had to take place, under the guidance of a new body set up by DBM the “Budget Reform Task Force”. After consideration, the decision was taken to refocus efforts in August 2000 during a workshop attended by government officials from relevant agencies, as well as representatives of the World Bank and ADB. The workshop went through the USAID consultants’ draft legislation line by line, reworking them in detail. This process was important not just for developing ownership of the legislation itself by those in government responsible for its eventual administration, but also for developing a deeper understanding of the principles underlying it. Arising from the workshop, an action plan was developed including the creation of a Technical Working Group (TWG) to drive the reforms forward, a rolling programme of workshops over a three-month period to develop the approach further, and the participation of the TWG in congressional discussions in order to promote understanding .

41. Throughout this process, the role of consultants hired to support the reform was catalytic. Significantly, a second group of USAID consultants were Filipino, had considerable technical and political knowledge, as well as the energy and interpersonal skills to navigate difficulties. It has been observed that the technical work necessary to achieve the new regulations created a sense of common purpose that was essential to the overall success of the reforms. However, observers also noted that the key to eventual successes of the reform to date is not technical. For many, a key lesson from the process at this phase was that taking time to involve all the appropriate stakeholders in government was essential. Campos and Syquia make the point of this period that

“It is better to have a less-than-ideal reform with strong government ownership than a “state-of-the-art” reform with little or no ownership. The latter has very little chance of succeeding.”

42. The process of reform was essentially a political rather than a technical achievement. When purely technical changes were proposed, they tended stall on organisational or high political grounds. Conversely, they succeeded when the politics was right.<sup>8</sup>

43. During 2001, subsequent to a change in the national Presidency, progressive officials were able to make institutional changes as part of the reform of governance. A Budget Reform Task Force was put in place, and linked to this, the Government Procurement Policy Board (GPPB) was reinvigorated to become the main oversight body for procurement. The GPPB reconvened the TWG on procurement reform, and it was this process that eventually resulted in the final draft legislation being adopted.

44. Whilst the draft law was to be put to Congress, in fact senior officials within the DBM were able to get the majority of the new procurement laws approved as an Executive Order of the President (EO40) on October 8th 2001. This was done tactically

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<sup>7</sup> For details of the politics of the procurement reform process, see Ed Campos and Jose Syquia, “Managing the Politics of Reform”, World Bank: 2006.

<sup>8</sup> *Ibid.*

to forestall any later veto of the reforms in the Legislature. As it happened, the political process of passing the procurement reform bill was not completed until the last quarter of 2003 when the law finally came into force, after considerable effort had been expended by the TWG, the Government Procurement Service and the Commission on Audit, the heads of which acted in concert throughout the period to maintain the momentum for change.

#### **4.1 Capacity development**

45. Throughout the processes of reform, different ODA providers have given a variety of assistance, including;

USAID	Legal drafting
CIDA	E-procurement
World Bank	Various (TA and funding for workshops, capacity building etc.)
JBIC	Sectoral specifics on infrastructure quantity surveying
ADB	Harmonisation and support for professionalisation of procurement
AUSAID	Technical assistance on an agency level
UNDP	Internal control support
EU	Specific to health sector; assessment of procurement risks.

46. Whilst the levels and timing of assistance has varied, what is clear is that the GoP has sought to drive the process of utilisation of assistance. In some cases offers of assistance from donors were politely declined.

#### **4.2 The role of civil society**

47. A particular characteristic of procurement reform in the Philippines has been the focus on public oversight. A dedicated civil society organisation, Procurement Watch Incorporated, was created to monitor the implementation of the new law.

48. An idea originally of the Filipino USAID consultant who provided technical assistance to the reform process, PWI was established in Feb 2002, with a mandate to oversee the reform process from the outside. Indeed, civil society oversight of tender decisions is now a legal requirement. PWI is now seen as a legitimate and valuable contributor to governance of procurement in the Philippines. PWT's board members are eminent members of civil society, individuals familiar with government. PWI is independent of government and remains sustained by external funders, receiving monies firstly from the World Bank's ASEM II trust fund (channelled through the DBM). PWI now has more diverse sources of funding from other donors, but is substantially dependent on sources of revenue outside the Philippines.

49. The role of PWI has, in its own assessment, changed from advocacy, dissemination, and informing the public more into research, expansion of training, improving training materials in recent years, and whilst an oversight body it has taken a view that NGOs at local level can better perform oversight of particular transactions, leaving PWI as a policy-level watchdog.

### 4.3 *Implementation*

50. In order to begin implementation of the reforms, three sets of processes have been put in place. Firstly, subsequent to the formation of PWI, a wholesale process of public awareness raising and training of civil society partners was undertaken. Working through groups such as the Transparency and Accountability Network (a group of NGOs), awareness of the new frameworks was built. This was coupled with an effective media campaign which raised the profile of procurement reform nationally and enabled political pressure to be maintained, on both officials and legislators, to enable the process to go forward.

51. In parallel to this, a process of reorienting civil servants was undertaken, beginning with the professionalisation of the procurement function across government. This process is continuing, with an emphasis now on the development of appropriate skills at local level.

52. Following the 2003 CPAR process and the adoption of the 2004 DAC indicator framework for institutional compliance with best practice in procurement, a GoP monitoring framework has been implemented that will seek to drive up the quality of procurement procedures and implementation across all agencies of government. These, the Agency Performance Indicators, seek to report on implementation, and are expected to generate greater incentives for compliance.

## 5. What has been achieved?

### 5.1 *Procurement*

53. The reform process to date has focused on establishing the appropriate legislative, regulatory and procedural environment for public procurement. Coupled to systems improvement and training and capacity building for both civil servants and civil society, the key elements of modern public procurement have been established. This has been a considerable success.

54. Respondents note that the *process* achievements are clear. There has been improvement in government systems, the reforms have rationalised procedures, and there is increasing confidence in the systems by international agencies (particularly the National Competitive Bidding processes). The trial of the Agency Performance Indicators by the GPPB and the World Bank office (the OECD DAC standard indicators for procurement<sup>9</sup>) demonstrate that for nine central agencies and one Local Government Unit in the pilot, compliance with the DAC standards in the six key areas of strategy, agency professionalisation, organisational structure, agency procurement processes, effectiveness and accountability, ranges from 49% to 79%.<sup>10</sup> It is expected that the rolling out of these indicators will drive achievements up further in the immediate term.

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<sup>9</sup> For details see OECD DAC 2005, DAC Guidelines and Reference Series “Harmonising Donor Practices for Effective Aid Delivery Volume 3 – Strengthening Procurement Practices in Developing Countries”, Paris at [http://www.who.int/hdp/publications/2c\\_vol3.pdf](http://www.who.int/hdp/publications/2c_vol3.pdf)

<sup>10</sup> Information from GPPB Technical Support Office and the World Bank

55. There is also evidence that outputs are emerging including the reduction of wastage and increase in cost effectiveness of purchases of public goods and services. The DAC has concluded that there have been “significant outcome improvements”,<sup>11</sup> citing an example reported by the World Bank in Education Sector Procurement. They suggest that, after the reforms, unit costs of chairs and desks have been reduced by between 22% and 77%, textbooks 50% and classrooms 39%.<sup>12</sup> However, such evidence is only just beginning to emerge, and government, civil society and donor partners all reflect that the challenge now will be managing the implementation of the new framework as it rolls out across government, continuing to build sufficient skills among participants in the process and ensuring compliance with the framework that has been put in place.

56. Respondents from Procurement Watch International reflected in interview for this study that

“There is still a high perception of corruption in procurement. It’s a mystery on whether we are making any impact in outcomes. People still see little progress in corruption. To be honest, there is a lack of a handle on the problem. We didn’t know what the size of the problem was. We still don’t.”

Thus, perceptions of corruption remain a concern. In 1996, the Philippines ranked 44<sup>th</sup> out of 54 countries in Transparency International’s Corruption Perception Index (i.e. 72% of countries performed better). In 2003, it was 92<sup>nd</sup> (along with 8 other countries) out of 133 (70% of countries performing better). In 2005, performance remained poor with 74% of countries performing better, the Philippines ranking 117<sup>th</sup> out of 158 countries (tying with 9 others for this place).<sup>13</sup>

57. The TI perception indices illustrate there is an inevitable lag between the creation of a new regulatory framework, its implementation, and the public realisation that the new system is working. For the Philippines, the new framework is in the process of rolling out across Government. The current challenge is ensuring it is implemented effectively (particularly in Local Government Units). It is thus, even now, probably too early to be able to track a change in the *perception* of effectiveness of the system, and may remain so. However, a continuing perception of poor performance is not productive, and it may be in the interests of all stakeholders to publicise success as it emerges.

58. One notable implementation challenges concerns one of the most innovative areas of the new legislation. It is proving hard in practice to institutionalise the oversight of procurement processes by civil society. PWI and others are concerned about the lack of individuals and agencies willing to take on this role, resulting in tender boards sitting without appropriate members of the public monitoring decisions (in spite of this being a right set out in the legislation). Such lack of implementation in practice undermines the gains to allow such an innovative process to take place.

59. Perhaps more fundamentally, concerns remain about compliance with the new frameworks in practice. Whilst the legislation and procedures are in place and institutional compliance is expected to improve (driven it is expected by the API

<sup>11</sup> See OECD DAC 2005, DAC Guidelines and Reference Series “Harmonising Donor Practices for Effective Aid Delivery Volume 3 – Strengthening Procurement Practices in Developing Countries”, Paris

<sup>12</sup> World Bank implementation completion report for Philippines social expenditure management project, 30 June 2004, p. 22-23, quoted in DAC Harmonising Donor Practices for Effective Aid Delivery Guidelines 3.

<sup>13</sup> Transparency International Corruption Perception Index 1996, 2003, 2005.

reporting), the ability of the judicial system to prosecute offenders under the new legislation has yet to be tested. For many, the prospect of a procurement-related corruption case reaching court still seems distant (in comparison with other examples in the region, for instance Hong Kong), although there is a common view that the threat of prosecution will in itself begin to reduce the incidence of corruption considerably. Systemic problems remain in this area which will continue to undermine confidence in governance overall, and the issue will need to be addressed appropriately in due course.

## 5.2 *Harmonisation and Alignment*

60. The process to date has been one of gradual convergence between country systems and international standards. Country systems are becoming more like the frameworks already used by the large multilateral partners. There has been increased harmonisation among donor on standards and increased use of common documentation.

61. The redrafting of the Philippines procurement framework was dominated by development of systems that approximate in many ways to that of the World Bank. This was not surprising; during the initial period of reform international consultants were explicitly used to advise GoP on what was “global best practice”. In this phase of the reform process, the focus was the development of the best domestic systems so that there would be increased confidence domestically and internationally in the GoP, not the development of fully harmonised procedures between the GoP and its external partners.

62. After the development of the CPAR process in 2002-3 and the subsequent increase in dialogue internationally and locally on systems harmonisation between the key donors to the Philippines, there has been a process of convergence of external and internal procedures, focused on the development of particular instruments (such as the National Competitive Bidding document). Respondents note that procedures have become more streamlined. The excellent process of dialogue has enabled continuous refinement, but since the structured dialogue based on the CPAR and the newly defined DAC indicators occurred after the promulgation of the new laws, there are limits to how flexible the GoP is now able to be in achieving full procedural harmonisation.

63. Successes in alignment and harmonisation to date have focused on the use of National Competitive Bidding, where all stakeholders have agreed a new common Bidding Document, and harmonised procedures. This document was derived out of negotiation between all the stakeholders, and is seen as a joint product. Its achievement has been a considerable success.

64. Procedural harmonisation in the area of International Competitive Bidding (ICB) remains a problem. This is not just a GoP issue, and technical differences between the donors remain on what are appropriate standards for ICB. As one respondent noted “*the master document for International Competitive Bidding has been under discussion for the last 5 years, still with no resolution*”. As a result, for much of their disbursement, lenders to the Philippines still require their own documents to be used (for instance World Bank) in lieu of a common procedure and master document. This is notable since in the case of the World Bank alone, more than US\$1 billion worth of tenders are let annually under ICB. Respondents indicate that the principal reasons why it has taken such a long time to agree on a master document has been the lack of co-ordination at headquarter level between the partners (in this case the ADB and the World Bank) on common procedures, the lack of delegation to local offices to enable procedural flexibility, and the

lack of flexibility locally in the drafting of the new laws. Staff reflect that such procedural difficulties should not be underestimated.

**Differences in criteria for bidders' eligibility for Goods and Services**

- For a provider to be eligible to bid to the ADB, they must be able to demonstrate that they have two previous contracts similar to that tendered which are 100% complete.
- For JBIC, the stipulation is three 100% complete contracts in the last five years.
- For the World Bank, the requirement is two previous contracts 75% complete in the last five years.
- For the GoP, the criteria is one previous contract, 50% complete.

65. Whilst ADB and WB are reportedly 80% harmonised between their procedures and criteria (indeed the ADB has recently modified requirements to become more like the World Bank), there are limits to the flexibility of the GoP to amend its procedures since these are now codified as law. Equally, whilst the annual CPAR process has helped to modify this process, and agencies have attempted to negotiate exemptions to their rules to enable harmonisation, there are limits to what can be agreed in country. JBIC, the largest ODA provider, is unable to modify any of its procedures without Tokyo's approval.

66. Fiduciary risk assessments (such as the World Bank's) rank the Philippines as an "average" risk. As a result, there are limits the scope for exemptions, and constraints on what can and cannot be done within government systems.

67. These are the types of detail<sup>14</sup> that officials try to reconcile as they try to harmonise and align procedures, a challenge recognised by the DAC Round Table on procurement in its deliberations leading up to the Paris Declaration in 2005 (see below).

68. However, some government officials note that the differences in procedural requirements between agencies has only limited impact in practice. Despite differences in documentation, the process for reviewing bids and the routing of the papers within the GoP's systems is the same for all donors. The GoP committee members involved in assessing bids are the same, and individuals express a high degree of familiarity with the different requirements of each lender. In practice, they say such differences entail little efficiency loss.

69. Wider harmonisation issues are also evident. Respondents noted that, for instance, the Department of Health is subject to an agreement with the WHO that means that all vaccines are purchased through UNICEF. In 2005, this amounted to over US\$650 million which could not be subject to public bidding. Other respondents noted that for infrastructure projects, there remained a concern that project-set technical and eligibility specifications excluded Filipino companies unreasonably.

<sup>14</sup> Other examples of procedural details that hamper harmonisation include that the ADB requires a two envelope (technical and financial) procedure, whereas the World Bank does not, and ADB can only accept bank guarantee for security and the World Bank accepts a security bond.

70. Whilst little evidence exists for improvements in ICB tendering, considerable anecdotal evidence is reported for the achievement of NCB. As a result, whilst information is only now being collected under the API, there are indications that disbursement of nationally utilised funds has improved under the new legal framework and procedures. It is too early, however, to see whether this is leading to accelerated achievement of the MTPDP and the MDGs.

## **6. Costs and benefits**

71. Whilst the benefits of the reforms are still emerging, there is no debate among stakeholders that the costs incurred have been necessary. This has been a process of fundamental reform, rooted in the modernisation of the Governance of the Philippines, and from the first has been seen as a lengthy and deep process that would involve a large number of agencies and partners.

72. The differences in opinion during the initial phase of the reforms between the external TA and the GoP partners have been seen in retrospect as an important part of the overall process of developing ownership. Transaction costs have been dependent not, in the main, on the technical changes required for the reforms, but on the political processes in the GoP and the legislature and the need to ensure ownership across all Government agencies of the changes required. The time taken to achieve change has been considerable. It is unlikely that the process could have been achieved more quickly, indeed efforts have been concerted, and driven by a core of reformers who have remained cohesive through the process.

73. Nonetheless, donor transaction costs have been high due to the protracted debates between the stakeholders on the procedural changes required, and they still express some frustration at the differences identified, and the inability of the GoP at key points to be flexible on (for instance) ICB criteria. However, as respondents noted, the lack of consistency between partners in their procurement requirements and the need to refer decisions to headquarters has been a key issue. They reflect that transaction costs could have been considerably reduced if there were increased local delegation.

74. Creating processes of regular review, notably the CPAR, whilst time-consuming have themselves allowed progress to be both continual and measured. Similarly, the willingness of the GoP to adopt international standards such as the DAC guidelines on procurement reform has fostered harmonisation. Again partners see the costs incurred in using such approaches as necessary and worthwhile

75. Partners reflect an overall belief that that the processes of reform will reduce transaction costs for all stakeholders eventually; for businesses bidding for government contracts, for GoP and for partners. This belief continues, and the processes that have been put in place for joint oversight (such as the CPAR and the Agency Performance Indicators) appear to bear this out.

76. However, some concerns remain among some partners about the use of “country systems” in contexts where they are not assessed as “low risk”. Donors take different views of the appropriate balance between protecting against fiduciary risk and making a commitment to use (and through use, to strengthen) country systems. In recent times, the World Bank appears to have become more concerned about corruption and fiduciary

risk, and more wary of using the reformed government procurement systems. There are concerns that this may be undermining progress in key reforms.

## 7. Lessons learned

77. The DAC Round Table on Procurement, which resulted in the December 2004 Johannesburg Declaration, identified three general lessons from procurement efforts so far.

“The first of these lessons is that even with the best of intentions on the part of the responsible agencies in partner governments and donors, the importance of good procurement was not understood and high level support for effective reforms was weak. Procurement should be viewed as a core function of government and a strategic activity, effectively integrated with other public financial management institutions and processes. The Mainstreaming WG was set up to address this issue.

The second lesson is that many previous programmes to develop procurement capacity have been low-level, too short term and donor driven and have mostly failed to address fundamental barriers to change, or make sustainable improvements. Theoretical work on capacity development that is being undertaken tells us that a more strategic, holistic approach is needed. The Capacity Development WG was set up to address this issue.

The third lesson is that the need for agreement among developing countries and among donors over what constitutes a “good” procurement system and how this should be measured. Lack of consensus has hindered progress. As a result the procurement system assessment process was not harmonized and agreement on the results and the remedial reforms required to address areas of weakness was difficult to reach. The Benchmarking, Monitoring and Evaluation Working Group (WG) was set up to address this issue.”

78. In the case of the Philippines, the need for reform was understood by a range of key stakeholders. There was considerable high level support on the part of responsible agencies and a broad coalition of reformers was built inside and outside government. The process was clearly driven by the GoP, supported by donors when required. The change process itself was holistic and as much political as technical. Debates remain about the details of the procurement system, which are as much a reflection of unfinished harmonisation efforts between donors as a lack of commitment by GoP. Processes of monitoring and review are creating a process for continuing technical improvement.

79. The following specific lessons emerge from the Philippines experience.

- i) From the first, procurement reform was seen as part of the modernisation of the core functions of government, and throughout has been linked to effective public financial management and good governance. This has ensured sustained effort and achievement of results.
- ii) The reform process was implemented by cadre of GoP officials who had been exposed to modern government practice in the 90s; observers and participants both identify this as a significant success factor. During this process, a critical mass of reform-minded officials was maintained. That

donors had supported these individuals gain overseas experience was important.

- iii) The reform was enabled and sustained by a broad coalition of support (officials, legislators, external partners, civil society) that was explicitly built and managed by the key drivers of the reform in Government. Without this coalition, the reforms could not have succeeded. As Campos and Syquia note, ensuring that there was clarity of purpose and effective communication between the players enabled the process to function effectively.
- iv) “The path from the status quo to the desired state is littered with uncertainty. What is needed then is a mechanism that enables reformers to deal with this uncertainty on a day-to-day basis. This goes beyond the basic adage of forming a coalition to support a reform effort. It means that members of that coalition must be knit tightly into a well-coordinated team that can develop and implement strategy as events unfold. How this is done will differ from case to case and country to country.”
- v) Those driving the change, whilst having a clear end point in mind, were skilled tacticians, exploiting the political moments as much as the technical possibilities. Their political ability was a critical success factor. Few outsiders are able to negotiate and engage with domestic and institutional political factors; such a task is the role of insiders.
- vi) These skilled tacticians were able to manage the weight and impact of external pressure, sometimes mobilising it (such as through the initial publication of the 1999 World Bank report) to achieve their objectives. There is clear evidence of the process of change being enabled through effective alliances between insiders and outsiders.
- vii) Whilst the process has been driven internally, the reforms have been assisted by external partners providing targeted pressure. It has been important that TA and funding has been provided at the request of GoP officials, and fundamentally guided by them. It will be noted that the same officials were not afraid to turn down assistance if it was inappropriate. The provision of such support has been catalytic at key points of the reform.
- viii) External TA processes have been particularly effective (notably provided by Filipinos with strong international experience). Where TA was provided that was technically focussed yet not sensitive to building ownership, it was less successful. The better TA providers have been able and willing to compromise technically to enable achievements of reforms within the local political environment. They have understood the “art of the possible”, and recognised that *“It is better to have a less-than-ideal reform with strong government ownership than a “state-of-the-art” reform with little or no ownership. The latter has very little chance of succeeding.”* (Campos and Syquia again)
- ix) Latent reformers from different parts of government were actively brought into the process through a rolling process of technical workshops. This created a highly-motivated technical group with strong bonds among its

members. The process of building a critical mass for reform was a key element of overall success.

- x) Equally, the role of publicity and a media campaign was critical in building and maintaining social pressure for reform.
- xi) There was a degree of institutional flexibility for different reform efforts as time required (e.g. the Budget Reform Task Force, Technical Working Group, a coalition of secretaries), while the DBM maintained overall oversight throughout.
- xii) Thorough analysis helped ground debates and disagreements, and the general discussion within sound parameters.

80. It will be noted, however, that in spite of the successes to date, key challenges still remain.

- i) One way of looking at the reform process is to identify three stages; a) putting in place the framework (legislation, regulations, procedures), b) implementing the new system, and c) the public identification of change. Whilst the process improvements have been tangible, implementation is still underway, and so far a perception remains that outputs are few. This may be a function of lack of knowledge (as the World Bank Education example quoted above implies), a time lag between experience and perception, or indeed a lack of achievement to date. The Agency Performance Indicators will provide further data on institutional capacity improvement. The key lesson arising from this appears to be that, even if changes are put in place, they take time to be recognised. There may, therefore, be scope to influence perception by publicising “good news” stories actively as part of the reform process, communicating the changes as they become evident and at the same time acting as prompt to accelerate implementation further.
- ii) As will be recognised, development of the legal framework and procedures only half the story. Whilst the CPAR and API should enable continuous process improvement, a key challenge for implementation is *ensuring compliance*. There will be concerns (particularly from outside the country) if the willingness of the courts to ensure that the new laws are adhered to does not stress to a willingness to prosecute.
- iii) There are risks in one of the most innovative areas of the process, the role of civil society in oversight. Whilst this process has been legislated, it is not yet functioning as intended in practice, with insufficient members of the public putting themselves forward to observe tendering decisions. More investigation needed on this, and more effort required to avoid the erosion of gains made.
- iv) Developing harmonised systems has not been a linear process. There has been a period of domestic systems improvement to be in line with international best practice, followed by a period of dialogue and convergence of procedures between donors and the GoP. This process of dialogue, involving local negotiations, and discussions with donor HQs for local

exemptions, is not complete, and has taken a considerable time. Whilst it is arguable that the Paris Declaration has energised some of these processes, it is likely that developing fully aligned procedures remains some way off, and will require the continuous dialogue to continue. It appears that HQ procedures of the large donors inhibit local harmonisation. This can only be solved either by a) increased local delegations, or b) negotiations and agreement at HQ level (as implied by the Johannesburg declaration). It appears that it remains early days still. Detail is important and needs to be considered.

- v) It may be, however, that the lack of harmonisation has less impact than is first thought due to the ability of the GoP to manage the differences between procedures effectively, and the utilisation of common committees, technical experts, and internal GoP processes.

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